

ESTTA Tracking number: **ESTTA173851**

Filing date: **11/09/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92046185
Party	Defendant PRO FOOTBALL, INC.
Correspondence Address	ROBERT RASKOPF Quinn Emanuel Urquhart Oliver & Hedges 51 Madison Avenue, 22nd Floor New York, NY 10010 UNITED STATES robertraskopf@quinnemanuel.com, parthachattoraj@quinnemanuel.com, fvasquez@washdc.whitecase.com, zissmana@redskins.com
Submission	Other Motions/Papers
Filer's Name	Lori E. Weiss
Filer's e-mail	loriweiss@quinnemanuel.com
Signature	/Lori E. Weiss/
Date	11/09/2007
Attachments	Blackhorse Reply.pdf (4 pages)(156431 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Registration No. 1,606,810 (REDSKINETTES)
Registered: July 17, 1990

In the matter of Registration No. 1,085,092 (REDSKINS)
Registered: February 7, 1978

In the matter of Registration No. 987,127 (THE REDSKINS & Design)
Registered: June 25, 1974

In the matter of Registration No. 986,668 (WASHINGTON REDSKINS & Design)
Registered: June 18, 1974

In the matter of Registration No. 978,824 (WASHINGTON REDSKINS)
Registered: February 12, 1974

In the matter of Registration No. 836,122 (THE REDSKINS - Stylized Letters)
Registered: September 26, 1967

AMANDA BLACKHORSE,
MARCUS BRIGGS,
PHILLIP GOVER,
SHQUANEBIN LONE-BENTLEY,
JILLIAN PAPPAN, AND
COURTNEY TSOTIGH

Cancellation No. 92/046,185

Petitioners,

v.

PRO-FOOTBALL, INC.

Registrant.

REPLY TO PETITIONERS' RESPONSE TO REGISTRANT'S STATEMENT OF THE
STATUS OF THE CIVIL ACTION

The Board's Order of September 28, 2007, requested to be apprised of the current status of the *Harjo* civil actions (*Pro-Football, Inc. v. Harjo*, Civil Action No. 99-1385 (CKK); *Pro-Football, Inc. v. Harjo*, Civil Action No. 03-7162 (collectively, "*Harjo*")), pending the disposition of which the instant matter has been suspended. On October 29, 2007, Petitioners filed a response to Registrant Pro-Football, Inc.'s Statement of the Status of the Civil Action asking the Board to remove the proceeding from suspension. Petitioners contend that reinstating this proceeding "could ultimately lead to a more expeditious resolution of the disparagement issue than the *Harjo* case." (Response to Registrant's Statement of the Status of the Civil Action at 2.)

The Board has already recognized that suspension is appropriate, as the *Harjo* civil action will have a direct bearing on issues pending before the Board. See 37 CFR § 2.117(a); TBMP § 510.02(a). Petitioners have conceded that virtually identical issues exist between the instant proceeding and the civil actions and have unequivocally declared their intention to rely on the record in *Harjo*: "Because Petitioners in this action are bringing a claim that is very similar to the one that was before the Board in the *Harjo* case, they plan to rely on a significant portion of the evidence present in the *Harjo* record for proving their case." (Petition for Cancellation at 3.)

As the Board has already recognized, the Court of Appeals' and the District Court's findings as to whether the evidence on the *Harjo* record is sufficient to establish that Registrant's marks are disparaging and as to the weight to be afforded Registrant's economic prejudice in the laches equation will be binding on the Board. Thus, even if the Board is capable of resolving this matter more expeditiously than the *Harjo* court as Petitioners contend, suspension is proper because the outcome of *Harjo* will have a direct bearing on the instant

proceeding. *Whopper-Burger, Inc. v. Burger King Corp.*, 171 U.S.P.Q. 805, 807 (T.T.A.B. 1971). ("As to respondent's complaint that the trial in the federal court will take longer whereas the Patent Office could render a decision more expeditiously, a decision by the United States District Court would be binding on the Patent Office whereas a determination by the Patent Office as to respondent's right to retain its registration would not be binding or *res judicata* in respect to the proceeding pending before the federal district court.") Therefore, suspending this proceeding pending the final determination of *Harjo* promotes judicial efficiency, reduces costs to both parties, and prevents the risk of inconsistent outcomes--which will ultimately lead to the expeditious resolution of this proceeding.

Accordingly, suspension of this proceeding pending the final resolution of *Harjo* is proper.

Dated: New York, New York
November 9, 2007

Quinn Emanuel Urquhart Oliver & Hedges,
LLP

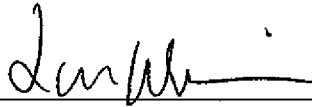
By: 

Robert L. Raskopf
Claudia T. Bogdanos
Lori E. Weiss
51 Madison Avenue
New York, New York 10010
Phone: (212) 849-7261
Fax: (212) 849-7100
Email: loriweiss@quinnemanuel.com

ATTORNEYS FOR REGISTRANT

Certificate of Service

I certify that on the 9th day of November, 2007, I caused a true copy of the REPLY TO PETITIONERS' RESPONSE TO REGISTRANT'S STATEMENT OF THE STATUS OF THE CIVIL ACTION to be served on Petitioners' attorney, Philip J. Mause, Drinker Biddle & Reath LLP, 1500 K Street, N.W., Suite 1100, Washington, D.C. 20005-1209, via First Class mail.


Lori E. Weiss